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C O N F I D E N T I A L SECTION 01 OF 02 KABUL 003443

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SUBJECT: PROVINCIAL COUNCIL ELECTION UPDATE

Classified By: PolCouns Annie Pforzheimer, Reasons 1.4 (b) and (d)

¶1. (C) Summary: Although preliminary Provincial Council results for 30 of the 34 Provinces have been released, no final results have been certified because the Electoral Complaints Commission (ECC) has not been able to finalize its investigations. The ECC is working to investigate 630 "priority A" fraud allegations in the Provincial Council elections, using trusted Provincial Electoral Complaint staff to do these investigations nationwide. They were not getting any cooperation from the IEC until an October 27 Elections Steering Committee meeting brought the Independent Electoral Commission (IEC) into line. The Embassy is engaging specifically on whether this lack of cooperation could cause violence in Nangarhar Province as a result of well-documented large scale fraud on the part of Karzai associates there. End Summary.

#### Fraud and Investigations

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¶2. (C) Peter Lepsch, Legal Advisor to the ECC, told us on October 24 that the ECC investigations into fraud in Provincial Council elections are moving quickly in those provinces where the ECC has received IEC preliminary results for the purpose of comparison. He said that the ECC has received 630 "priority A" complaints for Provincial Council elections (complaints that could affect the outcome of a Provincial Council elections). They had received about 1500 additional complaints that refer to simple electoral offenses that would not have had any real effect on the outcome and almost 900 that had nothing to do with an electoral offense. According to Lepsch, incoming complaints frequently have little corroborating evidence or supporting detail. When the ECC goes back to complainants to request additional information, the complainants generally are flummoxed that the ECC does not simply take them at their word, especially if they are a community opinion leader.

¶3. (C) The ECC's goal is to have all 630 priority A complaints adjudicated by November 6. Mr. Lepsch expected to be able to accomplish this even if complaints about preparations for the Presidential run-off begin pouring in, as long as they can keep some "helpers" from IFES until completion. We conveyed the Embassy's recommendation that the ECC delay the release of their Provincial Council adjudications until the day after the November 7 run-off to avoid any possible backlash or unrest in advance of the run-off. Mr. Lepsch agreed to take this message back to the Commissioners. The ECC hopes to have all PC and Presidential complaints, including those generated in the run-off, completed by the end of November.

¶4. (C) The ECC is relying on its provincial staff, located in provincial capitals in Electoral Complaints offices, to investigate complaints in the Provincial Council elections. Lepsch estimated that about two-thirds of these local staff were "fantastic" and felt confident that they were up to the task of being the sole investigators, without the oversight of international ECC staff from headquarters.

15. (C) In those offices where staff are less than stellar, the ECC plan is to send the best teams from other provinces or trusted local staff from headquarters to help. When asked about questions of staff corruption, Lepsch reiterated that the Commissioners had faith in the majority of the provincial staff but would act immediately to address any evidence of wrongdoing on the part of a staff member during the course of these investigations. In the cases where they already know of impropriety, they will keep those staff on only until after the run-off. Up until then, their investigations are overseen by strong ECC staff from other provinces. Lepsch estimated that they only had problems with 20-24 provincial staff. When asked if the four provinces with unreleased results also had the most questionable provincial ECC staff, Lepsch said that actually was not the case. While there was evidence of impropriety on the part of ECC staff in Kandahar, there was none in Nangarhar.

16. (C) Lepsch explained that fraud in the Provincial Council elections has been much more labor-intensive than in the Presidential election to discern as it is smaller in scale and involves a much larger field of candidates. Similarly, in the Presidential election, Karzai's fraud was easier to catch than Abdullah's because Karzai's people were so greedy their fraud was obvious. Abdullah's people, in contrast, just topped off boxes rather than, for example, trying to stuff 1400 ballots into one box. They scattered around much smaller amounts of fake ballots and so probably got away with much more in the end by avoiding the triggers of a time-strapped IEC and ECC. Provincial Council fraud, he said, is similar in nature to Abdullah's: lots of small deals made in multiple districts, a few ballots scattered

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around here and there.

The IEC Makes It All Harder  
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17. (C) Adding to the difficulties of timely completion of complaints adjudication by the ECC is the fact that the IEC will not release any of their data privately to the ECC. The IEC has released their preliminary election results in one large PDF file on their website for 30 out of 34 provinces. Lepsch added that the ECC could not fully investigate any complaints in the four provinces for which PC results have not yet been released; Ghazni, Kandahar, Paktika and Nangarhar; because the IEC did not pass them any data at all on these provinces until the issue was raised at an October 27 Elections Steering Committee. Prior to this recent release of data, the ECC had had to wait like everyone else for a public release of IEC preliminary results.

18. (C) Lepsch also noted that, IEC staff entered many Presidential and Provincial Council results that should never have been entered. These were entries from tally sheets that came to the IEC in tamper-evident bags that had obviously been tampered with or tally sheets that were sent in without the tamper-evident bag at all. Instead of immediately quarantining these polling stations, IEC staff, in many cases, simply entered the tallies as written on the enclosed sheets. Lepsch was ambivalent about assigning blame or guessing what percentage was due to intentional fraud on the part of IEC staff versus incompetence.

Possible Violence in Nangarhar As a Result  
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19. (C) The lack of IEC cooperation and/or incompetence is of specific concern in Nangarhar as a large group of Provincial Council candidates there are alleging major fraud on the part of the candidates who claim to have won. All of the allegedly fraudulent winners are Karzai associates with reputations for racketeering and drug trafficking. These Karzai associates have been leaking the results that favor them and threatening local businessmen with their impending

leadership takeover. The candidates alleging fraud are in turn threatening to cause street demonstrations and other civil unrest if the Karzai associates are declared by the IEC to be winners. PRT Nangarhar estimates that the candidates threatening civil unrest can deliver on their promise and that they will not understand the distinction between preliminary results and certified results. PRT Nangarhar is therefore very concerned about the possibility of violence in Nangarhar if the IEC announces preliminary results before the ECC is given an opportunity to investigate.

¶10. (C) On October 27 Dr. Najafi of the IEC announced at the Elections Steering Committee that he had decided that morning to give the order to publish the preliminary Provincial Council results for Ghazni, Nangarhar, Kandahar, and Paktika on their website. When we expressed concern about this decision possibly leading to violence in Nangarhar and asked that it be held off until the ECC could complete its investigation and the preliminary results could be agreed upon between the IEC and ECC, Dr. Najafi irritably agreed to pull back his order. We, the Swiss, and UNDP ELECT additionally asked that the IEC consider the security implications of some of its releases of information and perhaps give ANSF and UNDP ELECT an alert 24 to 48 hours before they make such a move in the future. Dr. Najafi chose to take this request as a swipe at his agency's credibility and crossly replied that all the complaints for the Provincial Council elections were the same as for the Presidential elections because the fraud occurred at the same polling stations so there was no need for an additional ECC investigation. When Margie Cook of UNDP ELECT again tried to explain our points to him, Najafi said angrily "I understand. You have nothing to worry about, the ECC is here."

¶11. (C) The IEC then agreed later that day, after a month of not responding to similar requests by the ECC, to privately provide the ECC with their preliminary data on the four unreleased provinces. Now that the ECC has this data, they can determine if they need to open any ballot boxes and complete their investigations. The ECC Commissioners will decide around October 29 if they will give the IEC permission to certify final Provincial Council results as they, the ECC, complete each provincial investigation or whether they will require the IEC to wait until all ECC investigations are done.  
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